| Police Scotland logo | Freedom of Information ResponseOur reference: FOI 23-2780Responded to: 21 December 2023 |
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Your request for information is replicated below, together with our response.

Please accept our apologies for the delay in responding.

**I am writing under the Freedom of Information (Scotland) Act 2002 to request information regarding cases involving Police Scotland officers who have been found to possess or distribute child pornography or engaged in child exploitation activities using department-issued or personal computers.
Specifically, I am seeking the following information for the time period from 01 January 2018 to 30 October 2023 inclusive.**

1. **The number of officers investigated for possessing, distributing, or creating child pornography or engaging in child exploitation activities including their names and rank at the time.**

Data held on the Professional Standards Department (PSD) Database is recorded in line with complaints categories (detailed in appendices G and H of the [Complaints About the Police Standard Operating Procedure (SOP)](https://www.scotland.police.uk/spa-media/fifhh5vo/complaints-about-the-police-sop.pdf)) and the regulated [Standards of Professional Behaviour](https://www.scotland.police.uk/about-us/who-we-are/our-standards-of-professional-behaviour/), none of which align with the details of your request.

Data has, however, been extracted based on allegations with a ‘sexual circumstance’ marker attached to complaints and conduct cases received between 01/01/2018 and 30/10/2023 inclusive.

A ‘sexual circumstance’ marker can be appended to any conduct or complaint case containing allegations which are perceived to contain a sexual element, whether physical or non-physical, criminal or non-criminal.

Although there is a specific category on the database for allegations of ‘Taking, distribution, possession etc of indecent photos of children’, there are no specific categories which correspond to ‘child exploitation activities’.

In an effort to be helpful in relation to this element of your request, we have included matters which relate widely to indecent communication (including Breach of the Peace and sharing of indecent images) through usage of personal or work computers.

Given that some criminal sexual allegations recorded on the PSD database are categorised as ‘Other’, these were subject to manual review to ascertain potential relevance to your request.

Moreover, allegations such as physical contact offences were excluded from manual review.

On that basis, from 01 January 2018 to 30 October 2023 inclusive, I can confirm that eleven Police officers have been investigated for allegations meeting the terms of your request - eight Constables and three Sergeants.

The information sought as regards their names is of course held by Police Scotland, but I am refusing to provide it in terms of section 16(1) of the Act on the basis that the exemption outlined at section 38(1)(b) of the Act applies - Personal Data

Personal data is defined in Article 4 of the General Data Protection Regulation (GDPR) as:

‘Information relating to an identified or identifiable natural person (“data subject”); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person’

Section 38(2A) of the Act provides that personal data is exempt from disclosure where disclosure would contravene any of the data protection principles set out at Article 5(1) of the GDPR which states that:

‘Personal data shall be processed lawfully, fairly and in a transparent manner in relation to the data subject’

Article 6 of the GDPR goes on to state that processing shall be lawful only if certain conditions are met. The only potentially applicable condition is Article 6(1)(f) which states:

‘Processing is necessary for the purposes of the legitimate interests pursued by the controller or by a third party, except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data, in particular where the data subject is a child’

Whilst I accept that you may have a legitimate interest with regards the disclosure of this information I do not agree that disclosure could be considered necessary in the circumstances.

Notwithstanding, I am further of the view that your interests are overridden by the interests or fundamental rights and freedoms of the data subjects.

On that basis, it is my view that disclosure of the information sought would be unlawful.

1. **The outcome of these investigations, including whether charges were filed, and the result of any legal proceedings.**

In accordance with the Police Scotland [Complaints About the Police Standard Operating Procedure (SOP)](https://www.scotland.police.uk/spa-media/lgyddvsi/complaints-about-the-police-sop.docx), *all* allegations of on duty criminality are reported to the Crown Office and Procurator Fiscal Service (COPFS) for independent assessment and to enable consideration of criminal proceedings to take place.

One officer was investigated however no charges were made as it was established that no crime / offence had been committed.

Two officers were reported to the Criminal Allegations Against the Police Division (CAAPD) of COPFS regarding alleged offences on duty, however this resulted in no formal criminal proceedings.

The remaining eight officers were all charged with various offences, including those outlined at sections 51 and 52 of the [Civic Government (Scotland) Act 1982](https://www.legislation.gov.uk/ukpga/1982/45/contents), section 127(1)(A) of the [Communications Act 2003 (legislation.gov.uk)](https://www.legislation.gov.uk/ukpga/2003/21/contents) and s38(1) of the [Criminal Justice & Licensing (Scotland) Act 2010](https://www.legislation.gov.uk/asp/2010/13/contents).

Five of the officers were convicted and are no longer employed by Police Scotland.

The cases against two officers remain pending with COPFS whereby one officer has resigned and the other is currently suspended.

In the case of the final officer, COPFS opted not to proceed with the case.

1. **Any policies, procedures, and training materials in place to prevent and address child exploitation among Police Scotland officers.**

Section 17 of the Act applies as there is no specific guidance/ policy etc on this subject targeted at Police officers specifically.

Materials produced for public disclosure are of course available to all officers and staff, for example:

[Get help or get caught - Police Scotland](https://www.scotland.police.uk/advice-and-information/child-abuse/get-help-or-get-caught/)

[Neil's story: Account of perpetrator who addresses their behaviour pre-arrest - Police Scotland](https://www.scotland.police.uk/advice-and-information/child-abuse/neil-s-story-account-of-perpetrator-who-addresses-their-behaviour-pre-arrest/)

[Child abuse - Police Scotland](https://www.scotland.police.uk/advice-and-information/child-abuse/)

Engagement in any such activities would be a clear breach of our [Standards of Professional Behaviour](https://www.scotland.police.uk/about-us/who-we-are/our-standards-of-professional-behaviour/) and these are reinforced continually through our force intranet site and in targeted campaigns.

You may also find the content of this recent FOI response of interest:

[23-1363 - Professional Standards Department - Gross Misconduct publication & Values and Standards Campaign - Police Scotland](https://www.scotland.police.uk/access-to-information/freedom-of-information/disclosure-log/disclosure-log-2023/june/23-1363-professional-standards-department-sex-equality-tacking-misogyny-survey-gross-misconduct-publication-values-and-standards-campaign/)

If you require any further assistance, please contact us quoting the reference above.

You can request a review of this response within the next 40 working days by email or by letter (Information Management - FOI, Police Scotland, Clyde Gateway, 2 French Street, Dalmarnock, G40 4EH). Requests must include the reason for your dissatisfaction.

If you remain dissatisfied following our review response, you can appeal to the Office of the Scottish Information Commissioner (OSIC) within 6 months - [online](http://www.itspublicknowledge.info/Appeal), by email or by letter (OSIC, Kinburn Castle, Doubledykes Road, St Andrews, KY16 9DS).

Following an OSIC appeal, you can appeal to the Court of Session on a point of law only.

This response will be added to our [Disclosure Log](http://www.scotland.police.uk/access-to-information/freedom-of-information/disclosure-log) in seven days' time.

Every effort has been taken to ensure our response is as accessible as possible. If you require this response to be provided in an alternative format, please let us know.